

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION
CRIMINAL MINUTES – SENTENCING HEARING
FINAL SUPERVISED RELEASE REVOCATION & SENTENCING HEARING**

Case No.: 5:15CR00008-001 and 5:02CR30031-001

Date: 2/23/2016

Defendant: Mark Anthony Rome Elliott, custody

Counsel: Louis K. Nagy, CJA

PRESENT:	JUDGE:	Michael F. Urbanski, USDJ	TIME IN COURT: 12:06-12:45;
12:51-1:02	50 minutes		
	Deputy Clerk:	Kristin Ayersman	
	Court Reporter:	Sonia Ferris	
	U. S. Attorney:	Grayson Hoffman	
	USPO:	Eric Taylor	
	Case Agent:	Chris Watson, HPD	
	Interpreter:	none	

LIST OF WITNESSES

GOVERNMENT:

- 1.
- 2.
- 3.
- 4.

DEFENDANT:

- 1.
- 2.
- 3.
- 4.

PROCEEDINGS:

- ☒ No Objections to Petition/Violation Report.
- ☒ Court inquires as to Objection(s) to Presentence Report made by ☐ USA ☒ Deft – portions of P 12, P15.
☒ Court overrules Objection(s) - Dft objection to base level of 32. Dft states he miscalculated and agrees with the Court.
- ☒ Court grants Objection(s) – Court will strike that portion of P12 from the PSR as stated on record. Court will strike portion of P15 beginning with “Additionally...sister had passed.”
- ☒ Argument.
- ☒ No evidence presented.
- ☒ Court adopts Presentence Report as amended on the record.
- ☒ Court accepts Plea Agreement as to Ct 1 of the indictment.
- ☐ Government Motion for Substantial Assistance.
☐ Court grants. ☐ Court denies.
- ☐ Defendant Motion for Downward Departure/Variance.
☐ Court grants. ☐ Court denies.
- ☒ Allocutions.
- ☒ Court finds that Defendant committed a Grade A violation and revokes term of supervised release/probation.

SENTENCE IMPOSED AS FOLLOWS:

CBOP: Ct 1 – 135 months to run consecutively with sentence imposed in 5:02CR30031-001 with credit for time served since 7/17/2014 ; 33 months to run consecutively with sentence imposed in 5:15CR00008-001

PROB: _____

SR: 5 years in 5:15CR00008; no further supervision in 5:02CR30031 - comply w/Standard, Mandatory & Special Conditions.

☐ Mandatory drug testing suspended.

SA: \$100.00 due immediately in 5:15CR00008; no SA in 5:02CR30031.

FINE: \$ _____

REST: \$ _____

☒ Court recommends as follows:

☒ That Defendant receive appropriate drug treatment and/or mental health treatment while imprisoned.

☒ That Defendant be designated to FCI closest to his home.

SPECIAL CONDITIONS OF SUPERVISION for 5:15CR00008 : (Check applicable conditions):

- ☒ The defendant shall participate in a program of testing and treatment for substance abuse, as approved by the probation officer, until such time as the defendant has satisfied all requirements of the program.
- ☐ The defendant shall participate in a program of mental health treatment, as approved by the probation officer, until such time as the defendant has satisfied all requirements of the program.
- ☒ The defendant shall reside in a residence free of firearms, ammunition, destructive devices and dangerous weapons.
- ☒ The defendant shall submit to warrantless search and seizure of person and property as directed by the probation officer, to determine whether the defendant is in possession of firearms and illegal controlled substances.
- ☐ The defendant must submit to warrantless search and seizure of person and property by the probation officer or other law enforcement officer, whenever such officer has reasonable suspicion that the defendant is engaged in criminal activity.
- ☒ Following release from imprisonment, the court will evaluate defendant's status and determine whether, after incarceration, drug rehabilitation is necessary and appropriate. If additional rehabilitation is deemed appropriate, the defendant shall participate in a program as designated by the court, upon consultation with the probation officer, until such time as the defendant has satisfied all the requirements of the program.
- ☐ The defendant shall pay any fine, special assessment or restitution that is imposed by this judgment.
- ☐ The defendant shall not incur new credit charges or open additional lines of credit without the approval of the supervising officer.
- ☐ The defendant shall not purchase, possess, use or administer any alcohol, or frequent any businesses whose primary function is to serve alcoholic beverages.
- ☐ The defendant shall provide the probation officer with access to any requested financial information.
- ☐ The defendant shall be prohibited from engaging in certain banking activities pursuant to 12 U.S.C. § 1829(a).
- ☐ The defendant shall perform ____ hours of community service to be worked out with and approved by the supervising officer.
- ☐ The defendant shall participate in the Home Confinement Program under home detention for a period of ____ months and shall abide by all program requirements. The defendant is restricted to his/her residence at all times except for employment; education; religious services; medical, substance abuse, or mental health treatment; or other activities pre-approved by the probation officer.
- ☐ While under home detention, the defendant shall submit to electronic monitoring and shall pay the costs of the electronic monitoring service.
- ☐ Within ____ days of release on probation/supervised release, the defendant shall register with the VA Dept. of State Police, Sex Offender Registry. The defendant shall also notify this agency within 30 days of any change of residence.
- ☐ Upon release from imprisonment, the defendant shall be delivered to an authorized immigration official for deportation proceedings and shall remain outside of the United States.
- ☐ See additional special condition(s) below.

PAYMENT SCHEDULE:

- ☐ A lump sum payment of \$ _____ is due immediately, and during the term of imprisonment, payment in equal (weekly, monthly, quarterly) installments of \$ _____ or ____% of the defendant's income, whichever is Choose an item., to commence ____ days after the date of this judgment; and payment in equal (weekly, monthly, quarterly) installments of \$ _____ during the term of supervised release, to commence ____ days after release from imprisonment.

ADDITIONAL RULINGS:

- ☐ Defendant shall forfeit his interest in the property listed in the Order of Forfeiture entered on (Date).
- ☐ Order of Forfeiture shall be made a part of the judgment in this case.
- ☐ Defendant shall be ineligible for all federal benefits for mos., yrs., permanently from the date of judgment.
- ☐ Count(s) _____ dismissed on Government Motion.
- ☒ Defendant advised of right to appeal.
- ☒ Defendant remanded to custody.
- ☐ Defendant to remain on bond and self report:
 - ☐ to the U. S. Marshal no later than (time) on (date).
 - ☐ to the institution designated by the Bureau of Prisons as directed by the U. S. Marshal.
 - ☐ to the institution designated by the Bureau of Prisons as directed by the U. S. Probation Office.

Additional Information:

Court adopts the Report & Recommendation of Matistrate Judge in both cases - ECF [89] in 5:15CR8 and ECF 70 in 5:02CR31.

USA moves to amend error in bottom line of guideline in his sentencing memorandum, but still wants to go forward with Rule 11 c1C agreement. Dft counsel likewise would like to go forward with PA as it is. Court asks dft if he wishes to move forward with PA - for 168 months - dft states on record that he does.

Court thanks family members for their letters of support for defendant.